



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 12774/2021

All Residents Of Ansal Sushant City, Bhakrasani, Jodhpur-342013 Through - 1. Tej Prakash Pathak S/o Late Sh. Ram Kailash Pathak, Aged- 47 Years, Resident Of D-226, Ansal Sushant City, Bhakrasani, Jodhpur (Rajasthan). 2. Prakash Kumar S/o Shri Binda Singh Aged- 39 Years, Resident Of House No. D-397-A, Ansal Sushant City, Bhakrasani, Jodhpur (Rajasthan).

-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Local Self Government Department, Govt. Of Rajasthan, Jaipur.
2. Secretary, Public Health And Engineering Department, Rajasthan, Jaipur.
3. Jodhpur Development Authority, Through Its Secretary, Jda Circle, Jodhpur.
4. Executive Engineer, Public Health And Engineering Department, City Division- Jodhpur.
5. Ansal Properties And Infrastructure Limited, Through Its General Manager (Projects), Local Office- Bhakrasani, Jodhpur.
6. The Managing Director, Star Facilities Management Limited, Local Office- Sushant City, Bhakrasani, Jodhpur.
7. Sushant City Residents Welfare Society, Through Its Secretary Sh. Nishchal Shrivastava, Resident Of D-372-373, Ansal Sushant City, Bhakrasani, Jodhpur.

-----Respondents

Connected With

D.B. Civil Writ Petition No. 13083/2021

Sushant Lok Residents Welfare Society, Registered Address R-113, Sushant Lok Ansal Api, Pali Road, Jodhpur (Raj.) Pin Code 342013 Through Its President.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Urban Development And Housing Department, Secretariat, Jaipur (Raj.).
2. The Principal Secretary, Public Health Engineering Department, Jaipur (Raj.).
3. The Principal Secretary, Public Work Department, Secretariat, Jaipur (Raj.).
4. District Collector, District Jodhpur (Raj.).

5. Jodhpur Development Authority, Jodhpur (Raj.) Through Its Secretary.
6. Gram Panchayat, Balaji Nagar, Panchayat Samiti Luni, District Jodhpur (Raj.) Through Secretary.
7. Ansal Properties And Infrastructure Pvt. Ltd., Registered Address 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi, Pin Code 110001 Through Its Managing Director.
8. Jodhpur Vidhyut Vitran Nigam Ltd., Jodhpur, New Power House Road, Jodhpur, Through Its Secretary.

----Respondents

For Petitioner(s)	:	Mr. Deen Dayal Chitlangi Mr. Sushil Bishnoi Mr. Devendra Singh
For Respondent(s)	:	Mr. Rajendra Prasad, Sr. Advocate and Advocate General (through VC) assisted by Mr. Anirudh Singh Mr. Rajesh Panwar, Sr. Advocate and AAG assisted by Mr. Ayush Gehlot Mr. B.L. Bhati, AAG with Mr. Tapendra Sankhala Mr. K. K. Shah Mr. Rajat Dave
Present in person	:	Mr. T Ravikant, IAS, Principal Secretary, UDH Mr. Samit Sharma, IAS, Secretary, PHED Dr. Hareetima, RAS, Secretary, JDA Mr. Manoj Bhawan, X.En., PHED, City- IV

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

03/04/2024

1. This Court has taken an exceptional concern for the issue of drinking water which the respondents were duty bound to provide to the common citizens residing in those approved residential colonies particularly while dealing with the second largest town of the State of Rajasthan i.e. Jodhpur.

2. This Court observed that order after order, there were directions which the respondents failed to abide by or create amicable solution for providing drinking water to such common citizens living in those approved residential colonies. This Court had taken note of the fact that the colonies were approved way back in the year 2006 which is about 18 years ago and since then, their residents have been struggling at the hands of the respondents for receiving regular drinking water supply.

3. This Court was conscious of the fact that right to access to clean & hygienic drinking water is an important element of the fundamental rights of citizens falling under the domain of Article 21 of the Constitution of India. Earlier, detailed orders were passed by this Court, upon which, another affidavit/compliance report has been filed today and detailed submissions have been made by learned Advocate General Mr. Rajendra Prasad assisted by Additional Advocate General Mr. Rajesh Panwar and Mr. B.L. Bhati, Mr. T. Ravikant, IAS, Principal Secretary, UDH, Mr. Samit Sharma, IAS, Secretary, PHED, Dr. Hareetima, RAS, Secretary, JDA and Mr. Manoj Bhawan, X.En. PHED, City-IV.

4. The stand taken in the affidavit/compliance report, which is filed today, is that the State had an intention to develop the new townships while encouraging private sector investment in housing and real estate sector and thus, the Rajasthan Township Policy, 2002 was promulgated with an intention to provide housing facilities for common citizens. The affidavit/compliance report further contains details what the Policy had for such developmental works. The affidavit/compliance report further states that the Policy of 2002 culminated into another policy i.e.

Rajasthan Township Policy, 2010 which was published vide notification dated 28.06.2010, whereby the parameters were slightly amended, but the core provision which pertain to providing water supply remained almost the same though certain changes were made in the rates.

5. The affidavit/compliance report also contains various details of charges to be borne by the parties particularly the Developer and the State authorities for the purpose of development of such facilities for the common citizens. The colony-wise details have been provided in the affidavit/compliance report. The said report also gives a sketch line on the Rajeev Gandhi Lift Canal which is a source of water supply in Jodhpur and its first phase was completed in 1996, augmented by second phase in 2005 for fulfilling the requirement of drinking water for 1400 villages and 5 towns including Jodhpur City.

6. The affidavit/compliance report also reported various progressive steps being taken by the respondents for laying down the basic infrastructure for distributing water which includes construction of escape reservoir. The affidavit/compliance report also reported an existing treatment plant for the purpose of transmission and distribution of the water by the respondent - PHED. The solution proposed by the respondents in their affidavit/compliance report in para 20 which is headed as 'working solution' reads as follows:-

"20. The answering respondent- PHED, Jodhpur further submits that the Sushant City is located at Village Bhakarasani on Bhakarasani - Salawas Road Jodhpur and the Sushant Lok is located at village Basani Bagela near Pali Road Jodhpur. In

view thereof, the water demand on the basis of present population residing and also, as per departmental norms of Rural area (i.e. @ 55 lt. per capita per day) for Sushant City is 79.86 KLD and for Sushant Lok is 39.93 KLD, whereby, both the colonies have their own internal distribution system, CWR, Pumping station with electrification and service reservoir. Thus, in order to provide water supply facility in Sushant City and Sushant Lok as an immediate working solution, RO (Reverse Osmosis) Plants needs to be installed either by the developers or petitioners/ residents of the colonies, over the underground water based tube wells. In this regard, the answering respondent- PHED, Jodhpur assures to provide technical assistant for the said work. It is also brought to the knowledge of the Hon'ble Court that at this juncture, it would be most appropriate and viable option to construct and commission Tube wells in both colonies with RO system for the reason that the ground water would not only meet out the present demand but the same makes it appropriate for drinking and cooking purposes, as it contains total dissolved solids ranging from 5000-7000 PPM. Therefore, following works are required to be undertaken in order to meet out the present water demands:

1. Construction and commissioning of shallow TWs with RO systems in Sushant City and Sushant Lok with annual maintenance contract for smooth operation and maintenance.
2. Construction of Rain water harvesting structure, which is also mandatory as per prevailing building bye-laws.

Alternatively, the answering respondent- P.H.E.D., Jodhpur also suggest that in the meantime as an immediate and temporary solution water demands of the petitioners can be met by providing water

facility from the Kudi Head Works subject to the condition that Tanker transportation cost of the same, will be either borne by the residents of the colonies or by the developer. But it is noteworthy to mention here that water would be provided subject to assessment of no. of residents living in the colonies, to be determined by the answering respondent- P.H.E.D., Jodhpur on the basis of data provided by the developer.”

7. Learned Advocate General while dealing with the affidavit/compliance report submits that huge works of water distribution are being undertaken in the region and in the State as well. Learned Advocate General further submits that the respondents are duty bound to provide drinking water to the citizens. The suggestions given by learned Advocate General for the solution are already reproduced in the above paragraph.

8. Learned Advocate General also submits that sufficient work at the end of treatment facilities, raw water carrier, clean water carrier, reservoirs, pump houses, distribution works and miscellaneous works are in progress and it shall take some time for the respondents to come out with an effective solution to tackle with the issue at large. The Advocate General further submits that necessary requirement of the citizens in and around the town was being worked upon and upto a time frame of 2025, they shall be able to achieve goal of providing drinking water to the residents of the approved colonies.

9. Upon such submissions having been made, this Court expressed its anxiety over the failure of the respondents to come up with a scheme of work and a solution for carrying drinking water to the residents of the colonies in question even after 18

years of due approval by the respondent-JDA and even after 22 years of township policy coming into existence. The norms, parameters, designs and plans which have been put forward regularly may be carried forward in future, but at the same time, the same does not address anxiety of this Court regarding non-availability of drinking water to the Colonies, which are approved by respondent-JDA and are waiting for drinking water to reach them for last 18 years.

10. This Court proposed to take harsh measures for ensuring the supply of drinking water, but at that stage again, the Advocate General stepped into the submissions and sought an hour's time to come back to Court with a temporary solution as well until the final solution reaches the citizens who are residing in the approved colonies.

11. Thereafter, learned Advocate General, after being granted an hour's time, again appeared before this Court and submits that three weeks' time may be granted to come with all the steps that they would be taking for creating a road map and for all facilities to provide drinking water to the citizens residing in such colonies.

12. During the course of arguments, this Court also interacted with the Officers present which include Principal Secretary, UDH and Secretary PHED who also assured this Court that all the requisite steps are being taken for the wholesome picture to be given the right impact including the completion of the rest of the phases of Rajeev Gandhi Lift Canal and also to provide proper reservoirs so that the extended services of drinking water could be expanded for the relief of the common man.

13. Time prayed in the right earnest is permitted. List the matter on 01.05.2024.

14. In the meanwhile, the respondent-PHED, at its own cost shall provide water facility to each one of the places which are there in the present PIL (this particular order shall be operational for those citizens living in colonies which are in purview of the PIL and approved by the respondent-JDA). The water supply shall be provided up to the reservoir which is a common stocking place of such colonies by way of tanker transportation. The quantity of water shall be assessed and analyzed by the experts of the respondent-department so as to satisfy the drinking/cooking water requirements of the residents and thereafter shall be provided to the citizens.

15. On 01.05.2024, whatever immediate and urgent steps which are assured to be taken by the Advocate General and the Officers present before this Court shall be apprised to this Court and also inform the progress taken to implement the same.

16. The Officers are exempted from personal appearance before this Court on the next date of hearing.

17. It is also needless to say that between the respondents, it shall be duty of the State to ensure that the developer is in their loop to ensure that the basic amenities are available to the citizens. It is made clear that this order is for the benefit of the common citizens, who are residing in the approved colonies of the State for last 18 years while waiting for drinking water to arrive.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

127-128-AjaySingh/BhumikaP/-